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DEPARTMENT OF ECOLOGY

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November 21, 2012

Rick Albright, Director  
Office of Environmental Cleanup  
US Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 900, AWT-128  
Seattle, WA 98101

**RE: Wyckoff Point – Comments on Third Five-Year Review Report**

Dear Mr. Albright:

This letter provides Washington State Department of Ecology (Ecology) comments on EPA's Wyckoff/Eagle Harbor Superfund Site, Third Five - Year Review Report (RR) issued September 27, 2012.

Ecology has several significant concerns regarding the content of this report and how the review process for this report was implemented. Specifically, that State concerns about the containment remedy, and the importance of the Focused Feasibility Study (FFS) process; were close to absent in your RR. Ecology believes that it is critical for these concerns to be part of the Administrative Record for the Site. This letter is written to serve that purpose.

At the outset, let me say that I believe EPA and Ecology are currently working together effectively, under the terms of the current State Superfund Contract (SSC). As stated in the SSC, Ecology has agreed to temporarily assume operations of the existing groundwater extraction and treatment system for a two-year period, while EPA prepares a Focused Feasibility Study (FFS) to evaluate a permanent mass removal remedy for the Soil and Groundwater OUs. This work is being done in response to Ecology and community concerns documented in Ecology's Wyckoff Point Generational Remedy Evaluation (GRE), regarding the protectiveness and permanence of the contingent containment remedy. Ecology is participating in EPA's FFS technical meetings, and we look forward to continuing to work productively with EPA to implement a permanent mass removal remedy at the site.

Our primary concern with the content of the RR is that it deemphasizes Ecology's GRE technical evaluation, which raised multiple concerns regarding the protectiveness of EPA's containment contingency remedy, and identified several viable remedial options that would remove the significant contaminant source mass of mobile NAPL from the Point.

There is no discussion presented in your report as to why the GRE was performed by Ecology, or regarding Ecology's numerous concerns with the contingent containment remedy, particularly our concerns regarding the protectiveness of this remedy.

There is one location in the report in particular where mention of the GRE or review of the containment remedy's protectiveness is notably deficient. This is in Section 7.4 of the RR, titled "Question C: Has any other information come to light that could call into question the protectiveness of the remedy." EPA's response to this question for the Wyckoff Point is "no additional information has come to light that could call into question the protectiveness of the remedy."

We feel that EPA's response here is inaccurate, considering there are four pages of text in the GRE report (Section 3.5) that specifically discuss uncertainties and concerns regarding the containment remedy, including discussions of the uncertainties of long-term stewardship, concerns regarding the containment remedy's effectiveness, and potential long-term risks of failure. The purpose of a five-year review is to determine whether the remedy at a site is protective of human health and the environment, and it is concerning to us that none of the concerns raised by Ecology and the GRE Steering Committee<sup>1</sup> members regarding the protectiveness of the contingent containment remedy were included in this RR.

The list of identified outstanding issues and the protectiveness statement included in the RR's Summary Form for the Wyckoff Point also appear to be lacking. The outstanding issues and protectiveness statement focus on finishing up implementation of the containment remedy, but what is missing in these items is the perspective of any of the bigger picture issues related to the containment remedy, such as the ability to implement this remedy in perpetuity and the potential consequences of leaving contamination within the Wyckoff Point. There is also no mention anywhere in the summary form about EPA performing a FFS to evaluate a permanent mass removal remedy. This is a serious omission, as this study is the major task that EPA is performing on the Wyckoff Point through 2014, and as stated in the SSC it is intended to result in a new Proposed Plan and ROD Amendment for the Site.

Another concern we have regarding the content of the RR is how it reads as if the contingency containment remedy has already been selected as the Wyckoff Point remedy by EPA. Our understanding is that it was not. We based this belief on the attached letter from EPA to Ecology dated September 21, 2010, which states "...although the EPA has previously signaled an intention to exercise the contingency in the ROD and thereby proceed with the containment remedy, EPA has not, in fact, formalized this decision."

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<sup>1</sup> The GRE Steering Committee included individuals representing Ecology, the City of Bainbridge Island, Bainbridge Island Metro Parks (the site owner), the Suquamish Tribe, the Association of Bainbridge Communities, and the Japanese-American Exclusion Memorial Committee. Each of these entities provided written support to the Generational Remedy Evaluation conclusions.



The RR text states that “the containment option (contingency remedy) was implemented in April 2004...”, but we are not clear as to the origin of this date.

Additionally, it is noted in the RR Summary Form that the Ecology has become responsible for the operation and maintenance of the hydraulic containment system for the containment remedy, but neither the temporary nature of this commitment or EPA’s role in performing a FFS for the Point are described in the Summary Form. The Summary Form implies that EPA has shifted operations and maintenance responsibilities permanently to our State, which is clearly not the case.

The SSC clearly states that Ecology has agreed to assume operations and maintenance of the existing extraction-treatment system only between April 2012 and March 2014, during which time EPA will perform focused feasibility activities to evaluate a permanent mass removal remedy.

Lastly, we have concerns regarding how the review process for the RR was implemented. Chung Yee, our Wyckoff Project Manager, was interviewed for the RR early in the report preparation process (April 2012), but he had no other involvement with the RR prior to the report’s release in September. Given the status of our joint obligations at the site under the SSC, we would expect the opportunity to review and comment on the Five-Year RR before it finalized, and provide concurrence prior to issuance. We find it disappointing that Ecology was not given this opportunity.

Once again, I believe we are working together quite well in the areas specified in the SSC. The concerns expressed in this letter about the Five-Year Review are separate and distinct from this assessment. I look forward to talking with you in person about the next steps for this project at our upcoming quarterly meeting.

Very truly yours,



James J. Pendowski, Program Manager  
Toxics Cleanup Program

cc: Dan Opalski, US Environmental Protection Agency  
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